

MDR Tracking Number: M5-04-2356-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on March 30, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening program (97545-WH-AP) and each additional hour (97546-WH-AP), functional capacity evaluation (97750-FC), and impairment-rating exam (99455 WP V1) **were** found to be medically necessary. The impairment rating of any specialty area (99455-SP) **was not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 23<sup>rd</sup> day of June 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 07-03-03 through 09-19-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 23<sup>rd</sup> day of June 2004.

David R. Martinez, Manager  
Medical Dispute Resolution  
Medical Review Division

DRM/pr

May 28, 2004

IRO Certificate # 5259  
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An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by \_\_\_\_, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_\_.

#### CLINICAL HISTORY

\_\_\_\_, a 42-year-old male was working as a bus driver for \_\_\_\_ when the vehicle he was driving was involved in a collision with a Lincoln Town Car at a traffic light. The car ran a red light, hitting the bus on the right front end and then slammed into the side of the bus. \_\_\_\_ sustained injuries and presented to \_\_\_\_ a chiropractor, the next day. He underwent a conservative care régime with multiple visits for complaints that included headache, neck pain, lumbar spine pain, right shoulder pain, bilateral wrist pain, bilateral knee pain and left ankle

pain. Numerous diagnostics were run including EMG/NCV on 6/2/03 (normal), MRI's on 6/10/03 of the right shoulder (small effusion with mild capsular hypertrophy of the AC joint), lumbar MRI (2 mm bulges and annular tears at T12/L1 and L4/L5 with grade one spondylolisthesis of L5/S1 with disc desiccation), cervical spine MRI (2 mm bulges at C3/C4, C4/C5 and C5/C6 with 4 mm left paracentral protrusion at C6/C7 and facet disease noted throughout).

The patient was referred for work hardening on 7/30/03 and was discharged on 8/8/03. An initial FCE was performed on 7/23/03 and showed the patient to be functioning in the light to medium physical demand level. The PDL of his job was determined to be medium. The patient progressed through work hardening with an improving level of pain and function. FCE performed on 8/8/03 revealed him to be functioning in the medium PDL, having met 7/7 goals established by the initial function capacity evaluation. He was discharged back to work. He then had an impairment rating performed on 9/19/03 resulting in a 10% whole person impairment comprised of cervicothoracic and lumbosacral DRE categories.

#### REQUESTED SERVICE (S)

Work hardening initial (97545-WH-AP) and additional hours (97546-WH-AP), functional capacity evaluation (97750-FC), impairment rating exam (99455 WP V1) and impairment rating, specialty area (99455-SP).

#### DECISION

There is establishment of medical necessity for work hardening program (97545-WH-AP) and (97546-WH-AP), functional capacity evaluation (97750-FC), and impairment rating exam (99455 WP V1).

There is no establishment of impairment rating of any specialty area (99455-SP).

#### RATIONALE/BASIS FOR DECISION

*The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.*

The patient entered the work hardening program at a light-medium physical demand capacity level, below that required by his occupation. He showed progressive improvement throughout the program and was discharged at a medium physical demand capacity level, matching his job PDC. The functional capacity evaluation was performed at the end of the program and is consistent with discharge requirements in a work hardening program.

The supplied documentation justifies that the above standard of medical necessity has been met. There does not appear to be any rationale supplied as to why the above services could be deemed “not medically necessary”.

An impairment rating was performed and this is consistent with requirements of the TWCC administrative process. There was no documentation supplied as to why a specialty level impairment rating was either performed or incorporated into the final impairment report.

**References:**

1/ CARF Manual for Accrediting Work Hardening Programs

2/ AMA Guides to the Evaluation of Physical Impairment, 4<sup>th</sup> Edition